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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,656	05/30/2000	Ivo Raaijmakers	ASMEX.137C1	2013

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EXAMINER

LEO, LEONARD R

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action**

Application No.

09/584,656

Applicant(s)

RAAIJMAKERS, IVO

Examiner

Leonard R. Leo

Art Unit

3743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_



Leonard R. Leo  
Primary Examiner  
Art Unit: 3743

Continuation of 5. does NOT place the application in condition for allowance because:

The recitation of "for high temperature treatment of substrates" is considered to be a statement of intended use. Applicant's reliance of functional language to "refer[s] back to, is defined by, or otherwise draws life and breadth from such intended use" is not persuasive. Structural limitations are required to support the "intended use" recitation. As such, the functional recitation is merely repetitive of the "intended use" recitation without providing any structural definition.

The recitation of "allowing treatment of the substrate upon the support structure" is considered to be functional language. Applicant has not demonstrated how the device of Bahng is structurally different. The drive mechanism of Bahng clearly moves from one position to a second position, where the second position is a specific distance from the heat exchange member. The functional recitation is a mere direction of an activity to take place in the future. There is no structural difference between the device of Bahng and the instant invention as claimed. Functional recitations do not take the place of structural limitations. There is nothing in the claimed invention that supports the functional language recited.

The prosecution history of a related case bears no consequence on the examination of the instant claims. Applicant is reminded of his duty to disclose (MPEP 2001.06(b) and 37 CFR 1.56), since the Examiner uncovered this "related case."

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